

REMARKS

Claims 1, 4-11, 15-21, 56-60 and 63-71 are currently pending in this application. Claims 63-68 have been cancelled, claims 1, 11, 15-17 and 19 have been amended, and claims 72-78 have been added herein. No new matter has been added by way of this amendment, and support can be found in the originally filed specification and claims.

Applicants gratefully acknowledge the Examiner's indication that claims 69-71 would be allowable if rewritten in independent form (Office Action, page 7). As such, claim 69 has been amended herein and rewritten as an independent claim incorporating all of the recitations of prior claim 1.

Claim 1 has been amended to recite that the aldehydes on the microsphere are neutralized by an amino containing agent. Support can be found, *e.g.*, at page 19, lines 21-23. Claim 11 has been amended to depend on claim 1. Other recitations in claims 1 and 11 have been deleted which are not required for patentability in light of the current recitations regarding the amino-containing agent. These deleted recitations are now recited in new dependent claims 74-78. Claims 15, 16, 17, and 19 have been amended to more particularly point out and distinctly claim Applicant's invention and not for reasons related to patentability. New claims 72 and 73 parallel the language of allowable claims 70-71 but instead depend on claim 1, as amended herein.

Thus, following entry of this amendment, claims 1, 4-11, 15-21, 56-60, and 69-78 will be pending. Applicants respectfully request reconsideration of pending claims 1, 4-11, 15-21, 56-60, and 69-78.

I. Rejections Under 35 U.S.C. § 103

The previous rejections under 35 U.S.C. § 103 over (1) Bachtzi *et al.* (1995) *J. Microencapsulation*, 12:23-25 ("Bachtzi") in view of US 6,242,512 by Figge *et al.* ("Figge"); (2) Bachtzi in view of Tarara *et al.* (U.S. Patent No. 6,565,885) ("Tarara") in further view of Figge, (3) Bachtzi in view of Tarara in further view of Figge; and (4) Boschetti *et al.* (U.S.

Patent No. 5,635,215) ("Boschetti") in view of Tarara in further view of Figge (Office Action, pages 2-7). The Examiner has further modified the rejections to include Figge and newly cited Kusano *et al.* (U.S. Patent No. 5,114,577) (Office Action, page 4).

Applicants traverse these grounds of rejection, essentially for the reasons of record, which are incorporated herein by reference, and again submit that the instant claims are distinguishable over the cited references because the cited references, either individually or in combination, do not disclose or suggest the claimed invention.

In addition, Applicants would like to clarify the record with respect to certain statements made by the Examiner. First, the Examiner appears to have misunderstood Applicant's position with respect to the microspheres of Boschetti:

Applicant asserts that Boschetti discloses a different PVA from those of the instant invention. Specifically, the PVA used as polymers in Boschetti were irregularly shaped and not spherical.

(Office Action, page 4; emphasis added). However, Applicants actually stated (and maintain) that the Boschetti polymers have different chemistry than PVA:

However, the chemistry of the microspheres of Boschetti is completely different than PVA, and if anything, actually *teach away* from using PVA as the polymers of Boschetti were an alternative to commercially available, irregularly shaped PVA particles... .

(Response dated October 31, 2007, page 20; emphasis added). That is, in contrast to the Examiner's assertions, Boschetti does not disclose or suggest microspheres comprising PVA as presently claimed.

Further, the Examiner appears to have misunderstood Applicant's position with respect to the use of NaOH in the preparation of microspheres:

While neither of [Figge or Kusano] specifically state that NaOH neutralizes the aldehydes as in the instant invention, a skilled practitioner in the art would recognize that the combination is the same combination present in the instant invention and must have the same properties/functions as the composition of the instant invention.

* * *

[W]hile the prior art does not disclose Applicant's rational for adding a component; it is the same component that is used by the Applicant.

* * *

Hence, it is unclear how and why Applicant's NaOH which is added to neutralize the aldehydes of the polyvinyl alcohol are different from the NaOH added to the polyvinyl alcohol of the prior art... .

(Office Action, page 4; emphasis added). However, Applicants respectfully direct the Examiner's attention to the instant specification, which actually teaches neutralization of aldehydes on the microspheres with an amino-containing agent (*e.g.*, Tris buffer), and not NaOH:

[A]ctive aldehyde on said spherical particles of crosslinked polyvinylalcohol is preferably neutralized by an amino-containing agent, such as aminoalcohols, *e.g.*, Tris, 2-aminoethanol, aminosorbitol and glucosamine, and more preferably, by a 0.5 M Tris-HCl buffer (pH 9).

(Page 17, lines 26-31; emphasis added). Similarly, Example 1 provides additional teaching of neutralization with a Tris-based buffer:

The resulting oil-free microspheres are then treated with a 0.5 M Tris-HCl buffer (pH 9) overnight at room temperature to neutralize excess aldehydes.

(Page 19, lines 21-23; emphasis added). Indeed, none of the Examples in the specification involve the use of NaOH -- nor would they -- because, as Applicant's have argued previously, NaOH is not able to chemically react as required to neutralize aldehydes on the microspheres as presently claimed.

Notwithstanding the above, and *solely* in an effort to advance prosecution of this application, the claims have been amended to recite the phrase "wherein aldehydes on said microspheres are neutralized by an amino-containing agent" The Examiner previously indicated that claim 69, which recites this phrase was allowable if rewritten in independent form (Office Action, page 7).

Thus, Applicants respectfully submit that independent claims 1 and 69, as amended herein are nonobvious over Bachtsi , Figge, Tarara, Boschetti, Kusano, either alone or in any combination thereof. In addition, claims 4-11, 15-21, 56-60, and 70-78, which depend either directly or indirectly from independent claims 1 and 69 and thus contain all the recitations thereof, is also nonobvious over the cited references, either alone or in any combination thereof.

Accordingly, reconsideration and withdrawal of this ground of rejection is respectfully requested.

II. Claim Objections

Claims 69-71 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form (Office Action, page 7). The Examiner correctly acknowledged that “the claims are distinguished over the prior art of record because the prior art neither anticipates nor renders obvious that the aldehydes on the microspheres are neutralized by an amino-containing agent” (Office Action, page 7; emphasis added).

As suggested by the Examiner claim 69 has been amended herein to recite all the recitations of claim 1. Claims 70-71 are dependent on claim 69, and thus contain all the recitations thereof. In addition, as discussed above, the remaining pending claims also has been amended herein to recite that the aldehydes on the microspheres are neutralized by an amino-containing agent.

As such, Applicants respectfully submit that claims 69-71, as well as claims 1, 4-11, 15-21, 56-60, and 72-78, are distinguished over the prior art of record because the prior art neither anticipates nor renders obvious that the aldehydes on the microspheres are neutralized by an amino-containing agent.

Accordingly, reconsideration and withdrawal of this ground of rejection is respectfully requested.

III. Conclusion


In view of the foregoing amendments and remarks, Applicants respectfully submit that this application is now in condition for immediate allowance. If the Examiner disagrees, the Examiner is encouraged to call the undersigned at the number listed below.

A one (1) month extension of time is requested and will be paid via EFS-web, which will extend the response period from April 24, 2008 to and including May 24, 2008. Because May 24, 2008 falls on a Saturday, the response period is extended to the next business day, Tuesday, May 27, 2008 (Monday, May 26, 2008 is Memorial Day), pursuant to 37 C.F.R. § 1.7. Thus, this response is timely filed.

Applicants believe no other fees are due in connection with this Response. However, if there are any fees due, please charge them to Deposit Account 50-3013. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for, such an extension is requested and the fee should be charged to our Deposit Account. Also, please charge any fees underpaid or credit any fees overpaid to the same Deposit Account.

Respectfully submitted,

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